IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE NINETH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

**THE HON'BLE MR JUSTICE D.S.R.VARMA**

**WRIT PETITION NO : 29993 of 1995**

Between:

1.Venkat Raju (Died), S/o Janaki Ramayya,
R/o Jampeta, Rajahmundry, East Godavari District.
2.V.Kanthamma, W/o Venkata Raju,
R/o Jampeta, Rajahmundry, East Godavari District.
3.V.Janaki Ramayya, S/o Venkata Raju,
R/o Jampeta, Rajahmundry, East Godavari District.
4.V.Satyanarayana Murthy, S/o Venkata Raju,
R/o Jampeta, Rajahmundry, East Godavari District.
5.V.Surya Prakash Rao, S/o Venkata Raju,
R/o Jampeta, Rajahmundry, East Godavari District.
6.G.Varalakshmi, W/o V.V.S.Suryamaohan Rao,
R/o Jampeta, Rajahmundry, East Godavari District.
7.V.V.V.Satyanarayana Murthy, S/o Venkata Raju,
R/o Jampeta, Rajahmundry, East Godavari District.
8.C.Manikyam, W/o Sathis Rao,,
R/o Jampeta, Rajahmundry, East Godavari District.
9.V.Venkateswarlu, S/o Venkata Raju,
R/o Jampeta, Rajahmundry, East Godavari District.
10.M.Mangamani, S/o Pradesh Rao,
R/o Jampeta, Rajahmundry, East Godavari District.
11.B.Subba Lakshimi, W/o Krishnar junudu,
R/o Jampeta, Rajahmundry, East Godavari District.
12.V.Raja Gopal, S/oVenkata Raju,
R/o Jampeta, Rajahmundry, East Godavari District.
13.V.Vishnu Murthy, S/o Venkata Raju,
R/o Jampeta, Rajahmundry, East Godavari District

**..... PETITIONERS**

AND

1.Assistant Director of Mines and Geology, Rajahmundry.
2.Senior Divisional Engineer, North Division,

South Central Railway Vijayawada Administration,
Vijayawada.
3.Deputy Director, Mines and Geology, Vijayawada.

**.....RESPONDENTS**

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ, order or direction: i) to declare the action of the 1st respondent in not renewing the lease pursuant to the application of the petitioner dt:1-9-1995 over an extent of 0.53 cents of land in survey No. 508/3 Ramdaspeta, Rajahmundry unless the petitioner pays a sum of 1,19,705/- allegedly due by him towards fee, case and 5times penalty on fee and the further action of the 1st respondent in not granting lease pursuant to the application of the petitioner dt: 28-9-1995 over an extent of Ac.1.14 of land in Sy.No.508/3 in Ramdaspet Village under the petitioners pays a sum of Rs.1,19,705/- allegedly due from him, more so when the fee and cess have been paid to the 1st respondent by the 2nd respondent as arbitrary illegal unjust without jurisdiction, violative of fundamental rights guaranteed to the petitioner under Articles 14 and 21 of the Constitution of India. ii) to declare the action of first respondent in not issuing Mineral Revenue Clearance Certificate for the quantity of 2639 Cu.m. pursuant to the letter of the petitioner dt:27-1-1995 and the further action of the 1st respondent in issuing letter.No.3662/Q1/95 dt:12-9-1995 refusing to issue Mineral Revenue Clearance Certificates for quantity of 2570 Cum. pursuant to petitioner's letter dt:1-9-1995 unless the petitioner pays the amount of 1,19,705/- allegedly due from him towards fee, cess, 5times penalty on fee, more so when the fee and cess was paid by the 2nd respondent as arbitrary, illegal, unjust without jurisdiction violative of the fundamental rights guaranteed to the petitioner under Art. 14 and 21 of the Constitution of India. iii) and issue a consequent direction to the 1st respondent to forthwith renew the lease pursuant to the application dated 28-09-1995, issue mineral revenue clearance certificates for 5209 cum without insisting on payment of Rs.1,19,705/-.

**Counsel for the Petitioner: MR.C.V.MOHAN REDDY**

**Counsel for the Respondents.1 & 3: GP FOR MINES AND GEOLOGY**

**Counsel for the Respondent No.2: Standing Counsel for Central Government**

**The Court made the following:**

THE HONOURABLE SRI JUSTICE D.S.R.VARMA

W.P.NO.29993 OF 1995

ORAL ORDER:

Heard both sides.

2. The petitioner is aggrieved *firstly* in not renewing the lease pursuant to the application of the petitioner, dated 01-09-1995, for an extent of Ac.0.53 cents of land in S.No.508/3 of Ramdaspeta village, Rajahmundry, unless the petitioner pays a sum of Rs.1,19,705/- allegedly due by him towards fee, cess and penalty; *secondly* to grant a fresh lease for an extent of Ac.1.14 cents of land in S.No.508/3 of Ramdaspeta village, Rajahmundry, without insisting upon payment of a sum of Rs.1,19,705/- and *thirdly* to issue mineral revenue clearance certificates for 5209 cubic metres without insisting upon payment of a sum of Rs.1,19,705/-.

3. The learned counsel appearing for the petitioners submits that first of all the Assistant Director of Mines and Geology, Rajahmundry, the first respondent herein, is not the competent authority to pass any orders. In other words, he has no jurisdiction. Therefore, the impugned order of rejection passed by the first respondent herein is liable to be set aside.

4. I find some substance in the submission made by the learned

counsel appearing for the petitioners. The first respondent admittedly is not the competent authority to pass the impugned orders. Therefore, instead of passing any adverse orders against the petitioner, the first respondent ought have forwarded the papers to the competent authority, who is no other than the Deputy Director of Mines and Geology, Kakinada, for passing appropriate orders.

5. Having regard to the facts and circumstances, the first respondent has no authority to send the proposals through letters bearing Nos.3691/Q1/95 and 4224/Q1/95, dated 28-11-1995 respectively to refuse the applications submitted by the petitioner seeking quarry lease.

6. Accordingly, the first respondent is hereby directed to forward all the papers, including the applications of the petitioner, to the Deputy Director, Mines and Geology, Kakinada, East Godavari District. Thereafter, the Deputy Director, Mines and Geology, Kakinada, East Godavari District, shall consider the case of the petitioner for renewal of quarry lease for an extent of Ac.0.53 cents and Ac.1.14 cents in S.No.508/3 of Ramdaspeta, Rajahmundry, East Godavari District, taking into consideration the objection of the petitioner that a sum of Rs.1,19,705/- cannot be insisted upon for the reason that when the mineral had been supplied to the railways, all the amounts have been deducted by the railways for the purpose of remitting the said amount to the credit of the department. This is only a matter of verification. If the petitioner can prove that the said amounts, which were asked by the respondents to be paid by the petitioner for renewal, were actually deducted by the railways department, the respondents shall not insist the petitioner for such payment. Insofar as the other reliefs are concerned, appropriate orders may be passed by the Deputy Director, Mines and Geology, Kakinada, East Godavari District, if the petitioner complies with the requisite formalities for the purpose of granting lease for an extent of Ac.1.14 cents in S.No.508/3, Ramdaspeta, Rajahmundry, East Godavari District. Regarding the mineral revenue clearance certificates, it is the contention of the petitioner that he could produce only some weigh bills and the other

materials and he could not produce the other weigh bills. Therefore, it is expedient to direct the competent authority i.e., the Deputy Director, Mines and Geology, Kakinada, East Godavari District, to examine and consider the case the petitioner; provided the petitioner furnishes the proof regarding the weigh bills for the remaining material.

7. With the above directions, the writ petition is disposed of. However, there shall be no order as to costs.

8. At this stage, the learned counsel appearing for the petitioner submits that in W.P.M.P.No.36954 of 1995, this Court by order, dated 29-12-1995, granted interim direction and by order, dated 02-02-1996, the same was continued on condition of the petitioner depositing a sum of Rs.60,000/-. It is made clear that the said deposit of Rs.60,000/- would be subject to the result of the orders to be passed by the competent authority i.e., the Deputy Director, Mines and Geology, Kakinada, East Godavari District.

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09TH JUNE 2005 D.S.R.VARMA, J

KRK

To:

1.Assistant Director of Mines and Geology, Rajahmundry.
2.Senior Divisional Engineer, North Division,
South Central Railway Vijayawada Administration,
Vijayawada.
3.Deputy Director, Mines and Geology, Vijayawada.

4.Two CCs to the Government Pleader for Mines and Geology, High Court Buildings, Hyderabad (OUT).

5.Two C.D. copies.

THE HONOURABLE SRI JUSTICE D.S.R.VARMA

W.P.NO.29993 OF 1995

09TH JUNE 2005